

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

MGDN Enterprise, Ltd.)
Jamal Bunni, President)
Applicant (Package Goods))
for the premises located at)
2353 North Narragansett Avenue)
) Case No. 08 LA 59
v.)
)
Local Liquor Control Commission)
Department of Business Affairs & Licensing)
Mary Lou Eisenhauer, Acting Director)

ORDER

CHAIRMAN FLEMING’S OPINION JOINED BY COMMISSIONER SCHNORF

The applicant applied for a Packaged Goods liquor license for the premises located at 2353 N. Narragansett. After an investigation was conducted, Mary Lou Eisenhauer, then the Acting Director of the Local Liquor Control Commission, denied the application on August 15, 2008. The reason for the denial was her determination that the issuance of this license would violate Section 4-60-090 (a) of the Municipal Code which states:

No license for the sale of alcoholic liquor shall be issued to any person, partnership, association or corporation for the sale or dispensing at retail of alcoholic liquor on any premises used as a filling station.

A timely appeal of this decision was filed at the License Appeal Commission. This matter proceeded to hearing on December 3, 2008, and was taken under advisement.

Bryan Knipper testified that he was the Senior Business Consultant for the Department of Business Affairs and Licensing that handled this application. He recommended that the package goods license be denied. He made this recommendation in part based on his review of the License Application Investigative Summary, in evidence as Applicant's Exhibit #1, which stated the business is occupying part of a Citgo gas station. Other factors considered on this denial included the fact that the location of this business and the Citgo station were part of a singular standing building on the same tract of land, lack of separate parking and the fact that gas pumps were in front of the premises proposed to be used for the package goods store. He stated he agreed with the memo prepared by James Terrell, Applicant's Exhibit #3. That memo stated the application should be denied because the applicant was "attempting to open a business selling liquor within a free standing building that was clearly constituted as a filling station and is in fact currently operating as a filling station. Changing the address and putting up an interior wall is merely attempting to squirt the intent of the law to keep the sale of liquor products away from the proximity of servicing motor vehicles."

Jamal Bunni is the owner of 50% of MGDN Enterprises. He owns the property located at Fullerton and Narragansett. The applicant's corporation which was created on May of 2007, has a two year lease for a portion of the property at Narragansett and Fullerton. A separate corporation has a lease for the portion of the property occupied by Citgo and has a franchise

agreement with Citgo. The building was originally empty space that was to be used as a Medical Center. It was remodeled for use by Citgo and Citgo painted this entire building. Later, the area where the packaged goods would be sold was built out with a wall separating it from Citgo at a cost of \$150,000. The wall was built to allow for the sale of alcohol and permits were obtained for the work. His intent was to comply with the Municipal Ordinances.

The geographical layout of the site is not in dispute. There is a Citgo station from a portion of the building. Apparently at one time it controlled the entire building. A license to sell liquor would not issue to any entity operating the Citgo station since those premises are being used as a filling station. The present layout contains two storefronts. One is for the operation of the Citgo station and mini-mart and one is the proposed site of a packaged goods location. Presently there is a wall dividing these two storefronts and there are separate leases for each storefront. While there was testimony that the gas pumps from the Citgo station are in front of the proposed site of the packaged goods store, the pictures seem to indicate that is not the fact.

This case comes down to this Commission's definition of the word premises. Merriam-Webster gives two definitions of the word as related to this issue. They are:

- A. A tract of land with the buildings thereon
- B. A building or part of a building usually with its appurtenances.

If one applies definition A, the license should be denied since the tract of land includes a portion of a building used as a filling station. If one applies definition B, the restriction on the license would not apply since one would focus on the use of the specific part of the building.

Under the specific evidence produced in this case, it is the decision of this Commissioner that it is appropriate to use definition B. There are two separate premises existing in the building at Fullerton and Narragansett. The premises in which packaged liquor goods would be sold are not being used by a filling station. The prohibition set out in Section 4-60-070(a) of the Municipal Code does not apply to those premises. The decision of the Local Liquor Control Commission denying the issuance of a package goods license to MGDN Enterprise, Ltd. for the premises located at 2353 North Narragansett Avenue is reversed.

COMMISSIONER KOPPEL'S CONCURRING OPINION

This Commissioner concurs with Chairman Fleming's decision. It is quite clear that the area where the packaged goods liquor license would be sold is separate from the Citgo station. They are definitely two different and separate operations and storefronts. The license should be granted.

THEREFORE, IT IS HEREBY ORDERED That the said order or action of the Local
Liquor Control Commissioner of the City of Chicago be and the same hereby is REVERSED.

Pursuant to Section 154 of the Illinois Liquor Control Act, a Petition for Rehearing may be filed with this Commission within TWENTY (20) days after service of this order. The date of the mailing of this order is deemed to be the date of service. If any party wishes to pursue an administrative review action in the Circuit Court, the Petition for Rehearing must be filed with this Commission within TWENTY (20) days after service of this order as such petition is a jurisdictional prerequisite to the administrative review.

Dated: February 20, 2009

Dennis M. Fleming
Chairman

Irving J. Koppel
Member

Stephen B. Schnorf
Member